



July 29, 1999

Mr. Leonard W. Peck, Jr.
Assistant General Counsel
Texas Department of Criminal Justice
P.O. Box 4004
Huntsville, Texas 77342

OR99-2139

Dear Mr. Peck

You ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 126777.

The Texas Department of Criminal Justice (the "department") received a request for the scored tests and scoring system used in connection with the examination given by the department in association with a job posting for a Parole Officer III position. You seek to withhold the requested information pursuant to section 552.122(b) of the Government Code.

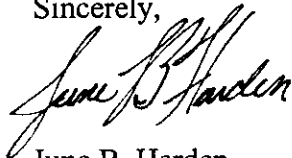
Section 552.122(b) excepts from disclosure test items developed by a licensing agency or governmental body. In Open Records Decision No. 626 (1994), this office determined that the term "test item" in section 552.122 includes any standard means by which an individual's or group's knowledge or ability in a particular area is evaluated, but does not encompass evaluations of an employee's overall job performance or suitability. Whether information falls within the section 552.122 exception must be determined on a case-by-case basis. Open Records Decision No. 626 at 6 (1994). Traditionally, this office has applied section 552.122 where release of "test items" might compromise the effectiveness of future examinations. *Id.* at 4-5; *see also* Open Records Decision No. 118 (1976).

After careful review, we agree that the examination questions and the applicants' responses are protected "test items" that "measure the skill, knowledge, intelligence, capacities, or aptitudes of an individual" and are a "standard means by which an individual's or group's

knowledge or ability in a particular area is evaluated.” Open Records Decision No. 626 at 6 (1994). However, we do not believe nor do you argue that the submitted score sheets are “test items” within the ambit of section 552.122(b). Thus, the department may only withhold the examination questions and responses under section 552.122(b). The score sheets must be released to the requestor.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Sincerely,

A handwritten signature in black ink, appearing to read "June B. Harden". The signature is fluid and cursive, with the first name "June" and last name "Harden" clearly distinguishable.

June B. Harden
Assistant Attorney General
Open Records Division

JBH/ch

Ref: ID# 126777

Encl. Submitted documents

cc: Ms. Sandra Hill
3824 Kiest Meadow Drive
Dallas, Texas 75233
(w/o enclosures)